

June 15 - 2019

United States of America

v.

04 CG 356 (AT)

Mostafa Kamel Mostafa

c/k/a "Abu Hamza," Defendant

Dear Respected Clerk of the Court,
please, find enclosed defendant motion letter to the
(Hon) madam judge Anelisa Torries, to direct
ADX prison to facilitate essential logistics for the
Deft. Mostafa to enable him to furnish the Respected
Court of Material (in Computer) Supportive of
his motion Rule 33 and other relevant matters-

And, As the Deft. is under Special Administrative
measures (isolated), it is very appreciated if you
advise of any documentation or resolution resulting
from this Motion letter by emailing to Deft.

The Deft. agrees to pay for any cost.

Many thanks

Respectfully Requested/Submitted

Deft. Most

Certificate of Service

The undersigned certifies that he has given
the enclosed Motion letter to ADX staff properly addressed
to: (SDNY) 500 Pearl St, with enough stamps

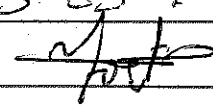
On Tuesday 7:00 am. June 18, 2019

On the envelope: to the respected Clerk of the
Court, United States District Court
Southern District of New York.

Mostafa Kemal Mostafa

67495-054

ADX Florence Co.

IM 

6-18-19

United States District Court
Southern District of New York

JUN 15 2019

United States of America

04 Cr. 356(AT)

- V. -

Mostafa Kamel Mostafa

a/k/a "Abu Hamza," Defendant

Defendant's Pro Se Motion Letter Requesting the Court
To Direct ADX Florence Prison to provide Essential Needed
Help To Enable The Defendant To provide The Court
with material Supportive of His Rule 33 Motions.

To: The Honourable Madam Judge Analisa Torres (SDNY)

From: Defendant, Prisoner: Mostafa Kamel Mostafa
67495-054 SAM Unit H Cell 300
US. Penitentiary Max
P.O. Box 8500
Florence CO. 81226-8500.

Dear respected Madam Judge Torres,

June 15, 2019

1- Defendant MOS tofa sincerely apologizes for having to write this pro se motion letter. And hopes that the reasons and exhibits provided therein explain the acute need to do so; in the absence of any other options.

2- A: Since the Deft. Submitted his Rule 33 Motions to ADX (SIS staff) on April 16, 2019, He had no feed back from any one to find out if the Court has received the motion or any follow up about the issue; mainly because of: (a) The imposed S.A.M (b) the many ignored Requests to ADX legal Dept. to provide last entries (Please See Exhibit 01) (c) And also the defense attorney's failing to inform or answer Deft. letters (See Exhibit 02 letter).

3- The Deft. Then wrote several Request to SIS staff to provide a note of "Deft. Submitted the motion timely" and a copy of which to be resend to the respected Court (Please See Exhibit 03)

Only then SIS Compelled the legal Dept to provide the Court entries. And they did on Fri June 14 2019, at 2:00 pm; it was the last day of the Dead-Line the Court ordered the Court. to respond to the Deft. motions. (Please See Exhibit 04).

4- : And likewise, the respected court received the Dept. Motions 548 and 549 (Rde 33) almost one month after the Dept submitted them April 16, 2019. because the SAM stipulate that letters from and to courts must be submitted / received open and no receipt of timing provided to innmate.

Therefore, the respected court should consider the above if decided any dead-lines or specific timing for the Dept. to respond to any court issue.

5- B: { Documents & material Supportive of Dept }
33 motion but unable to send to the Court
{ Because of the above situation and more. }

Thanks to the learned judge: soon after the court issued a note to Dept attorney to respond to Dept motion of the misunderstood Rule 59 (March 27, 2019), the Dept since received for the first time ever, 3500 material in a CD from Mr. Bachrach Esq. in April 12, 2019 and a copy of his response to the Courts.

The Dept. in a letter to his attorney, April 30, 2019, thanked him and the judge, and corrected his misunderstanding and his statement to the Court that the Dept received certain documents from his colleagues before. And showed him where to find and asked him to send it. Also, to answer

important questions about the sequence of Rule 33
motion procedures and deadlines (see Exhibit 02)
But to date never answered any of the requests,
which could have spared the Dept and the
Respected Court the burden of this motion.

6- The Dept. was excluded from attending many
legal arguments pre and during the trial, and all
side bar arguments from which he learned after the
trial (shortly) how the govt misled the trial judge and
hidden material to do so and to protect witness
lies (as in affidavit Rule 33) Circumventing all
the Brady rules and the Conduct of professional
honest prosecutor. And relieved the trial attorneys
for their part in the misconduct. And have the
moral & legal right to submit to the learned judge
some of the evidence of their misleading/misconducts
which he is to date prevented because of the misuse
of the SAM. which was never meant to impede
Defendants' legal rights timely and honestly. Pre trial
jailed Dept. does not have the right to present his
case, monitor his attorney nor throw a Dept at large.
But SAM Depts (according to these prosecutors)
are "Fair game"

7- So the issue is not "fully" the material; but the
new findings that the Court tried and protected lies

Through out legal arguments before the respected trial Judge, and when and where the Dept. was not allowed to attend.

The respected & learned judge knows: one thing is a witness lies to relief himself from his crime and/or be ~~incriminated~~ ^{incentivized} handsomely, another is the Court knows and his material to benefit from his lies, let alone argue on his behalf of his lies, distracting and/or misleading judges and jury.

Such serious issues are independent of time and even any outcome of the trial according to U.S. Court standards and all modern world.

8- The Dept was given a Copy of whatever his London visiting lawyers given Mr. Schneider, the trial attorney then, in 2012. Ms Gerroth Peirce provided 3 CDs and even when the existing attorney took over for the appeal the Dept provided them (Mr. Bachrach ^{esq.} & Mr. Schmidt ^{esq.}) with a Copy. Some of the Documents therein prove the point above and the Court had faith through out the trial. And were essential for a fair trial and certainly worthy of the madam judge's consideration in the present assessment to prevent the syntax of the law to being used against its merits and essence.

9. ADX is not, and will not, allow any print out of digital material, or compile any CD to the Court without direction from the respected Court; hence the need for this motion.

10. Conclusion / Request

According to all above, the Dept. very respectfully moves asking the Court to:

A - Direct / Compel the prison to assist and allow print outs of hard copies of needed documents

B - to assist and allow a Compiled CD to the respected Court of material supportive to Dept Rule 33 and as general reference to many other material the Court is concealing / denying its existence for future, if any, litigation and as reference.

C - Allow the Dept to write a file to help the respected Court to navigate / Browse and itemize the contents

D - For the respected Court to Calculate Dead lines, if any, given to Dept, from the date of receiving the notice

(Est: 5 pages plus exhibits)

Respectfully Submitted

~~not~~

Mustafa K. Mustafa

Exhibit 01

Carroll N. Cooney

To: Ms. Shelton Esq. legal Dept 6/3/19
from: Mostafa # 67495-054 Hunt all 300

Re: District Court Motion entry in Docket

I wrote to you some weeks ago for the same request but never received a reply.

I submitted to SAS staff a pro se Motion to the District Court on April 16, 2019. I asked the clerk to send me its entry and the last two pages of the docket sheet, and so I did with my attorney, but I never received any reply.

Could you kindly provide me with the entry of such pro se after April 16, 2019 and any resolutions, if any, and the last two pages of such Docket Sheet, at your nearest convenience.

Details as follow.

United States v. Mostafa Kamel Mostafa

Southern District of New York, 500 Pearl Street

Case No. 04, Cr. 356 (AT).

Judge Hon. Analisa Torries

Thank you

Respectfully Requested

I/m ~~for~~

PS. Please, acknowledge a receipt of the request and provide advice.

* You may charge my personal money account if there is any cost required. ~~for~~ 6/3/19

Exhibit 02 (3 pages)

From: Mostafa
ADX Finance.

1/3

April 30 2019

Subject: Hon. Judge Torres, 3500 and Other issues

Dear Michael:

Thank you very much for your letter April 4, 2019, which I received April 12, and the 3500 CD which I received for the first and only time, unlike you been informed.

I am now getting access to discovery room and seeing material in that CD which I never seen before but I can relate to what took place during my trial, though many important useful stuff never been used.

I am also, grateful to you and Hon. Judge Torres for her prompt action to my motion letter. I received the paperwork. Since, her action, I received your call, letter, 3500 CD and even a call from Lindsay all with just one crack of her whip!

Thank you for your explanation about the rule 59 conditions over the phone. I wrote to you about during my petition for reconsideration but I had no answer; so I thought I lost the opportunity to submit it as I knew the denial over a month after.

However, I submitted my Rule 33 motion on April 16 this month; it contains six points and two affidavits. I hope you can read it and if possible send me a copy of it from the trial document sheet. I also sent a copy to prosecutor and I am not aware of what is getting on; so please, let me know of any decision or dead-lines; and any advice you see through we never discussed any of it, as you wished to recuse yourself from it.

I also, noticed from your letter to me and Hon. Judge, that you are under the impression that I received other documents from Mr. Schindler or Lindsay such as my qualifications which is not true. During my call to Lindsay 6 days ago, again I gave her where to find these documents in John CD and SAM's copy, as well as Abbassi's material.

And you will be surprised to find the material you sent me about Abbassi in the Recent 3500 CD is already in your CD and SAM CD also, next to the material I keep asking you to print out for me about him. And all of that was known to US Govt and EU & UK Court during the extradition case and also, my nationality case which had the M15, Abbassi and others in good details. Also in the disc you have. And in the Govt position since 2006 there are always.

Lindsay promised to pass on the details, once again, to you where to find the material if you lost my previous 2 letters about the same. But because I have not received anything since I spoke to her I will give you the details again as follows:

(a) My qualifications are in your disc in a folder titled "Defendant personal plus" and then sub folder: "Qualifications plus pdf" it is an Acrobat file

(b) As for Abbassi, all his material is in your disc & SAM in folder:

~~Bundle~~ Bundle B Abbassi & Ujamaa Bundle
inside folder: Abbas Ujamaa Abbassi Others

sub sub folder: Bundle 1 Abbassi statement & Diary

You could also search your CD for exact result:-
Abbassi Statement

The PDF file is 350 pages, the first 9 pages is the statement then up to page 133 is his diary in GTMO then from 133 → 185 is Abbassi civil action against G.W. Bush (includes the Tribunal you just sent me)

⇒ Abbassi was available to give evidence via video link like Badat but trial attorney failed to contact him sincerely you can contact him yourself and specifically ask him about the video link testimony you will see he was not told about it

I can see the whole file in my copy of your CD but I cannot do any print because of the misuse of S.A.M. and I might need to write to the Hon. Muslim Judge the Comptroller ADX to make a print out for me and a digital CD for her as exhibit in my case.

3/3

I believe my nationality folder, which included every aspect of the indictment one year earlier (2003) and has the M15, Yemen (advice) 1999 and other denied to me documents, is sufficient to prove that Hon. Judge Forrest was misled by the nature and reality of the M15 file, which by denying me its use I was also, denied the same benefit of the "Gillmore" case.

The Govt concealed the entire nationality file and all its appendices and aggravated and frustrated the defense to deny any of its use improperly. If you can assist in this point let me know; I have included it to in my Rule 33 once I found about the May 7, 14 conference which I was precluded from but after the trial I got the transcript.

Now I have simple questions about the Rule 33 motion:

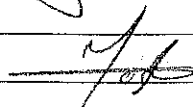
(a) Do I need to comment about any reply from the Govt about it? if so, how would I know? and what is the time limit?

(b) In case of denial do I have a chance to ask for a reconsideration if the denial included misunderstood important points or overlooked others?

(c) If the only chance left is the appeal, do I need to fill or submit any forms for that? what are they and how?

Finally thank you again, you can answer me in short bullet points about whatever you want to answer. And please send me the print-out or advise why not.

Yours Sincerely



April 30, 2019

Exhibit 03
Request

Carbon copy

To: Mr. Oliver (SIS) Jun 06, 2019
From: Mustafa # 67495-854 H-int
Subject: My Rule 33 Motion to District
Court SDNY April 16, 2019

It appears that the motion I handed to
you to weigh & Stamp and Sent out on
April 16, 2019 did not make it to the court.

I may have to send it again. My legal
team are not helpful nor honest on this
matter. I am also, getting no response from
the legal Dept here to obtain a docket sheet
Print out. I need you to help me of:

- ① provide a signed & stamped note
that I handed over such motion
on ~~the~~ April 16, 2019 as above
condition (146 pages)
- ② provide a full, clean identical copy
of the motion, which you have
signed, including the envelope.
- ③ Confirm the Date which F.B.I
approved the motion to be mailed
out to the court.

Please acknowledge a receipt of this request and return
signed & stamped with your advice. Respectfully
~~not~~ Requested.

	<u>543</u>	March 27, 2019 (ecf #541), and case status update (Bachrach, Michael) (Entered: 04/03/2019)
04/03/2019	<u>544</u>	LETTER by USA as to Mustafa Kamel Mustafa addressed to Judge Analisa Torres from USAO-SDNY dated 4/3/2019 re: Rule 59 Motion Document filed by USA. (McGinley, Ian) (Entered: 04/03/2019)
04/29/2019	<u>548</u>	Defendant Pro Se MOTION Letter Seeking Leave To Submit Pro Se Rule 33 Motion Seeking Leave for a Retrial. Document filed by (04-Cr-356-1) Mustafa Kamel Mustafa. Dated: April 16, 2019. (bw) (Entered: 05/03/2019)
04/29/2019	<u>549</u>	Defendant Pro Se Rule 33 MOTION For A Retrial. Document filed by (04-Cr-356-1) Mustafa Kamel Mustafa. Dated: April 16, 2019. (bw) (Entered: 05/03/2019)
05/03/2019	<u>547</u>	ORDER as to Mustafa Kamel Mustafa: On March 27, 2019, the Court received a letter from Defendant Mustafa, requesting an extension of time to file a Rule 59 motion for reconsideration of the denial of his appeal. See ECF No. 540. As explained by his counsel in a letter dated April 3, 2019, this request "appears to be a misunderstanding of the purpose of Rule 59 of the Federal Rules of Civil Procedure" because "a motion for reconsideration of the denial of his appeal has already been filed and denied by the Second Circuit, and the next procedural step in his appeal is a petition for certiorari to the Supreme Court." ECF No. 543 at 3. Defense counsel also states that he spoke with his client, who "now understands that a Rule 59 motion cannot be filed at this time," and that it would only be appropriate after he filed a petition pursuant to 28 U.S.C. § 2255 and that petition was denied. Id. See Fed. R. Civ. P. 59(e). Accordingly, it is hereby ORDERED that Defendant's request for an extension of time to file a Rule 59 motion is DENIED without prejudice as premature. Defense counsel also requests that the Court "hold in abeyance Mr. Mustafa's resentencing hearing until after his petition for certiorari has been resolved." ECF No. 543 at 4. In a letter dated April 3, 2019, the Government contends that "a resentencing is [not] warranted or necessary" because although the Second Circuit reversed Defendant's convictions on Counts 7 and 8, it affirmed Defendant's life sentences on Counts One and Two and did not remand this case for resentencing. ECF No. 544. Having considered these positions, the Court declines to schedule a resentencing hearing at this time but notes that the Government has made a compelling argument as to why a resentencing is not warranted. Accordingly, it is further ORDERED that defense counsel shall file a letter within fourteen days of resolution of Defendant's petition for certiorari, informing the Court of its outcome and noting what relief he seeks at that time. (Signed by Judge Analisa Torres on 5/3/2019) (ap) (Entered: 05/03/2019)
05/14/2019	<u>552</u>	ORDER as to Mustafa Kamel Mustafa: On May 14, 2019, the Court received a letter from Defendant Mustafa seeking leave to submit a pro se Rule 33 motion seeking leave for a retrial. ECF No. 548. That same day, the Court also received Defendant's pro se Rule 33 motion. ECF No. 549. Accordingly, it is hereby ORDERED that by June 14, 2019, the Government shall file its response to both of these motions. (Responses due by 6/14/2019) (Signed by Judge Analisa Torres on 5/14/2019) (ap) (Entered: 05/14/2019)

Case No. 1:04-cr-356-AT-1

150 C/O K O + 2 C

Southern District of New York

10/10/2024

David Patrick Reynolds Court Name
Court Street

David Patrick Myhrum - Court name
600 Pearl Street
New York, New York 10007.

Completed
by

